

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JERMAINE LINTON,

Plaintiff,

- against -

CITY OF NEW YORK, et al.,

Defendants.

ORDER

CV 2015-2556 (WFK)(MDG)

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Plaintiff has moved for leave to proceed in forma pauperis
under 28 U.S.C. § 1915. Section 1915(a) of Title 28 provides that:

Any court of the United States may authorize
the commencement, prosecution or defense of
any suit, action or proceeding, civil or
criminal, or appeal therein, without
prepayment of fees and costs or security
therefor, by a person who makes an affidavit
that he is unable to pay such costs or give
security therefor.

Because plaintiff has established by affidavit that he is currently
unable to pay such costs or to give security therefor, his
application is granted.

However, plaintiff may recover funds later in this action
sufficient to enable him to repay the filing fee. If he is a
prevailing party after trial, he is entitled to recover costs
pursuant to Fed. R. Civ. P. 54(d)(1) and is authorized to recover
filing fees under Local Civil Rule 54.1(c)(10). Thus, should
plaintiff recover monies in this litigation, whether after trial or
other disposition on the merits, or in settlement, plaintiff must
reimburse the Court for the fees and costs that are waived by this
order. See Fodelmes v. Schepplerly, 944 F. Supp. 285, 286

(S.D.N.Y. 1996); cf. Flint v. Haynes, 651 F.2d 970 (4th Cir. 1981) (finding that use of the word "prepayment" in section 1915(a) "indicates that Congress did not intend to waive forever the payment of costs, but rather it intended to allow qualified litigants to proceed without having to advance the fees and costs associated with litigation.").

In addition, 28 U.S.C. § 1915(d) and F.R.C.P. 4(c)(3) require that when a plaintiff is authorized to proceed in forma pauperis, the court shall order a U.S. Marshal or someone specially appointed to effect service. Plaintiff's counsel is hereby appointed to serve process on the defendants by mail. The docket sheet reflects that a summons was issued. This Court notes that the Marshals ordinarily serve process by mail, see Manson v. Simply Food LIC LLC, 2010 WL 376644 at *2 (E.D.N.Y. Jan. 26, 2010) (discussing the Marshal's service by mail).

SO ORDERED.

Dated: Brooklyn, New York
May 6, 2015

_____/s/_____
MARILYN D. GO
UNITED STATES MAGISTRATE JUDGE